

Bill C-45

Bill C-45, passed on November 7, 2003, was an amendment to the Canadian Criminal Code and it was not meant to replace the Occupational Health & Safety Regulation that was currently in place across Canada. The bill was created as a direct result of the Westray Mining disaster in Nova Scotia, Canada on May 9, 1992.

Westray Mining Disaster

This incident happened despite serious safety concerns raised by employees, union, and officials and government inspectors. The company made very few changes and selected to continue operation of the coal mine. As a result of these lack of changes, the disaster occurred. It took the lives of 26 people.

The Police in Nova Scotia failed to secure a conviction against those who had the power to make the changes that would have saved these people. Due to this, a Royal Commission of Inquiry was established to investigate. This Royal Commission made **74** recommendations. These findings led to amendments if the Criminal Code.

The Criminal Code

On March 31, 2004 the Canadian Criminal Code was amended creating Section 217.1 which reads: *“Everyone who undertakes, or has the authority to direct how another person does work or performs a task is under a legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that work or task”*. Bill C-45 also added Sections 22.1 and 22.2 to the Criminal Code imposing criminal liability on organizations and their representatives for negligence (22.1) and other offences (22.2).

Criminal Code 217.1 was introduced so that companies (and their senior management) would focus on their responsibilities and accountability stated in the OH&S legislation and that if they choose not to comply with their legal responsibility they risk serious consequences which are legally enforceable.

Employers can limit their liability and reduce the chances of being charged under the provisions of the Criminal Code by implementing an effective workplace health and safety program.

You Will Want to Know:

- What your legal obligations are under occupational health and safety laws and standards.
- What hazards exist in your workplace.
- How to effectively remove hazards and mitigate risk.

You Will Want to Ensure:

- A safety system is implemented to ensure everything reasonably practicable to protect the health, safety and welfare of everyone at work is being done
- Management understands their duties and responsibilities in the workplace
- Supervisors are trained
- That workers are supervised adequately and competently
- Employees are aware of the company's health and safety system, are informed of any risks, and receive appropriate training to protect themselves and others from harm in the workplace
- Your safety program on a regular basis to ensure that your company is meeting the policies and procedures established in your program.

Conclusion

Most incidents that occur in the workplace will continue to be dealt with through the regular OH&S channels and not through the criminal courts. The intent of Bill C-45 was to bring justice to the companies, and individuals who **DO NOT** take safety seriously.

While the above is just a quick summary. If you follow through and meet your obligations, continually take all reasonable steps to prevent incidents and injuries, you will not have any problems with this addition to the criminal code.

Sources:

<https://www.ccohs.ca/oshanswers/legisl/billc45.html>

<https://justice.gc.ca/eng/rp-pr/other-autre/westray/p1.html>

www.saskatchewan.ca/business/safety-in-the-workplace/

Tool Box Talk

When accidents and incidents happen on the jobsite, we are always quick to point the finger at lack of training, not following practices or procedures, or even improper supervision. The idea that the hazards and dangers associated with the job were not properly communicated to all of the workers is often missed.

Tool Box Talks can go by many names, and although formats may vary, these meetings all serve one purpose: to inform employees and contract workers. Tool Box Talks are short, informal, meetings between management and the workers on a jobsite. The goal of these meetings is to reinforce current safe job procedures, inform workers of new and/or relevant procedures, review recent safety violations/incidents, and ensure workers are up-to-date on the information required to complete their work safely.

Always use a Tool Box Talk form to record the meeting topic, date, who was in attendance, and any follow-up actions to be taken. Not only do these forms help with consistency of record keeping, but they also ensure that nothing is missed. At the end of the meeting have management sign off on the form.

One of the most important aspects of a Tool Box Talk is giving workers an opportunity to voice their concerns and ask questions. All employees have a right to participate in health and safety as it relates to their work and it is the supervisor or manager's responsibility to create an environment for them to do so. Once the meeting is over, and the form is filled out, it should be filed with other documented Tool Box Talks.

Remember that Tool Box Talks are short and informal, they are not meant to be intimidating. Use the opportunity to have fun and stay on top of what is necessary to keep safety culture a strong part of the business.

For a full listing of Tool Box Talk topics, visit: www.scsaonline.ca/resources/tool-box-talks

For a copy of the Tool Box Talk form, visit: www.scsaonline.ca/pdf/Tool_Box_Meeting.pdf

About the Saskatchewan Construction Safety Association

The Saskatchewan Construction Safety Association (SCSA) is an industry-funded, membership-based, nonprofit organization that provides cost-effective, accessible safety training and advice to employers and employees in the construction industry throughout the province to reduce the human and financial losses associated with injuries. Registered March 20, 1995, the SCSA is, and has been since inception, committed to injury prevention. Serving almost 10,000 member companies with business offices in both Regina and Saskatoon, the major business units of the association are Advisory Services, Business Development, Corporate Services, Program Services and Training. The mission of the SCSA is constructing safety leadership in Saskatchewan and the vision is to create the safest construction environment in Canada.